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SCHEEF & STONE, L.L.P. 5956 SHERRY LANE SUITE 1400 DALLAS, TX 75225			ZEWDU, MELESS NMN	
			ART UNIT	PAPER NUMBER
			2683	7

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/943,997

**Applicant(s)**

MITTAL, GAURAV

**Examiner**

Meless N Zewdu

**Art Unit**

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/23/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-14, 18-21 and 24 is/are rejected.
- 7) ☐ Claim(s) 15-17, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment (Response)***

1. This action is in response to the communication filed on 1/23/04.
2. Claims 1-24 are pending in this action.
3. This action is final.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry, Jr. et al. (Henry) (US 5,603,084) in view of Gerszberg (US 5,297,192).

**As per claim 1:** In a radio communication system having a network part that is capable of communicating data messages that are generated at a data message service center to a mobile station operable in a radio communication system, said mobile station operable pursuant to at least one operational parameter, an improvement of said network part capable of downloading initial operating parameters to said mobile station to initially configure said mobile station, said improvement comprising:

Art Unit: 2683

an operational parameters signal generator coupled to receive an indication of a request to download values of said operational parameters to the mobile station, said operational parameters signal generator for generating a signal directed to the data message service center to downloading of said values of said operational parameters to said mobile station reads on '084 (see col. 2, lines 6-14, lines 44-58; col. 8, lines 40-61).

an operational parameters request signal generator positioned at said data message service center, said operational parameters request signal generator for generating a data message request for communication to said mobile station, said data message request requesting initiation of the downloading of said operational parameters of said mobile station reads on '084 (see col. 9, line 50-col. 10, line 3). But, Henry does not explicitly teach whether the downloaded operational parameter data to the mobile station is an initial operational parameter data as claimed by applicant. However, in a related field of endeavor, Gerszberg teaches that number assignment module (NAM) designation parameters can be downloaded into a memory of a mobile data telephone set, so that service authorization codes and activation/initialization can be entered remotely into the subscriber's set thereby initiating cellular service or changing the type of service provided (see abstract; see col. 5, lines 43-67). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of Henry with that of Gersxberg for the advantage of quickly, reliably and cost-effectively provide voice and data services to new or existing customers (see col. 1, lines 56-60).

Art Unit: 2683

**As per claim 2:** An apparatus wherein said radio communication system provides for Short Message Service (SMS) message communication, wherein said data message service center comprises an SMS service center, and wherein said initial operational parameters request signal generator is positioned at the SMS service center reads on '084 (see fig. 1; col. 6, line 42-col. 7, line 12).

**As per claim 3:** An apparatus wherein said data message request generated by said initial operational parameters request signal generator comprises an SMS message for communication to said mobile station reads on '084 (see col. 9, line 50-col. 10, line 29)..

**As per claim 4:** An apparatus further comprising a mobile station apparatus for downloading values of said initial operational parameters pursuant to which said mobile station is operable, said mobile station apparatus comprising:  
a data message request detector coupled to receive indications of a data message request generated by said initial operational parameters request signal generator, said data message request detector for detecting a data message request requesting the initiating of the downloading of said initial operational parameters to said mobile station reads on '084 (col. 8, line 9-24; col. 9, line 25-col. 10, line 3).

**As per claim 5:** An apparatus wherein said radio communication system is operated by a system operator having a node-device coupled to said network part, wherein said data message request is of values identifying the node-device reads on '084 (see fig. 1, element 27) and wherein said mobile station further comprises:

Art Unit: 2683

a data call initiator coupled to said data message request detector, said data call initiator operable responsive to detection by said data message request detector of the data message request to initiate a data connection between said mobile station and said node-device coupled to said network part and identified in said data message request reads on reads on '084 (see fig. 1, element 26; col. 9, line 25-col. 10, line 3).

The short message center receives a data signal from the activation center and manages to send a programming short message to the radiotelephone. So, request and detection (by the activation center and message center respectively) are inherent features since the end result (remotely programming an un-programmed radiotelephone) is same as claimed by applicant.

**As per claim 6:** An apparatus wherein said apparatus further comprises a node-device apparatus for downloading values of said initial operational parameters pursuant to which said mobile station is operable, said node-device apparatus comprising: a data call connector operable responsive to initiation by said data call connection initiator of the data call connection, said data call connector for completing said data call connection between said node device and said mobile station reads on '084 (see fig. 1; col. 9, line 25-col. 10, line 3)..

**As per claim 7:** A node-device apparatus further comprising an initial operational parameters value provider coupled to said data call connector, said initial operational parameters value provider for providing values of said initial operational parameters to said mobile 6 station subsequent to completion of a data call between said node-device and said mobile station reads on '192 (see abstract)..

Art Unit: 2683

**As per claim 8:** An apparatus wherein said data call initiator further comprises a data call status reporter operable at least responsive to successful downloading of values of initial operational parameters provided to said mobile station by said initial operational parameters value provider to report a successful downloading of the values of said initial operational parameters to said mobile station reads on reads on '084 (see col. 8, lines 40-61).

**As per claim 9:** An apparatus wherein said data call status reporter further determines whether the downloading of the values of said initial operational parameters to said mobile station is successful reads on '084 (see col. 8, lines 40-61).

**As per claim 10:** An apparatus wherein said data call connector further terminates the data call connection subsequent to a report made by said data call status reporter reads on '084 (see fig. 4, block 70; col. 7, lines 38-58).

**As per claim 11:** An apparatus wherein said data call connector further authenticates said mobile station prior to completion of said data call between said node-device and said mobile station reads on '084 (see col. 7, lines 21-36; col. 8, lines 40-61; col. 10, lines 39-50).

**As per claim 13:** An apparatus wherein said mobile station comprises one of: a cellular telephone, a vending machine, radio communication equipment that utilizes a Global System for Mobile Communications (GSM) module, and radio communication equipment that utilizes a Code Division Multiple Access (CDMA) chipset reads on '192 (see col. 5, lines 43-67).

Art Unit: 2683

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henry in view of Gerszberg as applied to claims 1 and 4-6 above, and further in view of Kalliokulju et al. (Kalliokulju) (US 6,385,451 B1).

**As per claim 12:** An apparatus wherein said network part of said radio communication system comprises a radio access network reads on '084 (see fig. 1; abstract). But, Henry in view of Gerszberg do not explicitly teach about a packet data network coupled to the radio access (cellular telephone network coupled) and further a server coupled to the packet data network, as claimed by applicant. However, in a related field of endeavor, Kalliokulju teaches and shows that a server (e.g. internet and a packet data network (GPRS) can be connected to a circuit switched mobile communication network (see fig. 1; fig. 5; col. 1, line 49- col. 2, line 67). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references for the advantage of enabling mobile stations to make a connection handover between mobile connection networks without terminating data transmission connections (see col. 9, lines 32-49).

Claims 14, 18, 19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry in view of Gerszberg and further in view of Raith (US 5,930,706).

**As per claim 14:** In a radio communication system having a network part that is capable of communicating data messages that are generated at a data message service center to a mobile station operable in a radio communication system, the



Art Unit: 2683

mobile station operable pursuant to at least one operational parameter, a method for downloading operational parameters to said mobile station to configure said mobile station reads on '084 (see col. 2, lines 6-14, lines 44-58; col. 8, lines 40-61). The feature directed to—powering up said mobile system/station and detecting said powering up of said mobile station within a server coupled to said radio communication system would have been inherent since unless the mobile station is powered-up, it won't be able to communicate (for e.g. register) for any kind of service.

sending a data message to said mobile station to enable said mobile station to make a data connection with said server reads on '084 (see col. 6, line 41-col. 7, line 20; col. 10, line 58-col. 11, line 20).

establishing a data connection between said server and said mobile station reads on '084 (see col. 11, lines 40-67). But, Henry does not explicitly teach whether the downloaded operational parameter data to the mobile station is an initial operational parameter data as claimed by applicant. However, in a related field of endeavor, Gerszberg teaches that number assignment module (NAM) designation parameters can be downloaded into a memory of a mobile data telephone set, so that service authorization codes and activation/initialization can be entered remotely into the subscriber's set thereby initiating cellular service or changing the type of service provided (see abstract; see col. 5, lines 43-67). Gerszberg also teaches about loading programming data or operational parameters into the mobile station (see abstract). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of Henry with that of Gersxberg for the

Art Unit: 2683

advantage of quickly, reliably and cost-effectively provide voice and data services to new or existing customers (see col. 1, lines 56-60). But, Henry in view of Gerszberg does not explicitly teach about, interpreting said programming/provisioning data within said mobile station to determine whether said programming/provisioning data is relevant, as claimed by applicant. However, in a related field of endeavor, Raith teaches that a mobile station can determine whether a received message contains relevant data which should be fully decoded or irrelevant data which does not need to be fully decoded (see abstract; col. 6, lines 21-37). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above modified reference (the teaching of Henry in view of Gerszberg), for the advantage of enabling mobile stations avoid unnecessarily processing irrelevant data (see col. 5, lines 39-62).

**As per claim 18:** the method further comprising the step of:

sending a commit message to said server when said mobile station determines that said provisioning data is relevant reads on '084 (see (col. 9, line 25-col. 10, line 10).

**As per claim 19:** the method further comprising the step of:

sending a failure message to said server when said mobile station determines that said provisioning data is not relevant reads on '706 (see col. 6, lines 21-37).

**As per claim 20:** a method further comprising the steps of:

Sending to said server a message from said mobile station indicative of a successful loading of said initial operational parameters from said provisioning data into said mobile station reads on '084 (see col. 8, lines 40-61).

Art Unit: 2683

sending a message from said server to said mobile station acknowledging receipt of a successful loading of said initial operational parameters from said provisioning data into said mobile station reads on '084 (see col. 8, lines 32-48). The prior art advantageously confirms to the radiotelephone, not only successful receipt of the message, but also the fact that the radiotelephone is operational.

**As per claim 21:** the method further comprising the steps of:

Sending to said server a message from said mobile station indicative of a failure to load said initial operational parameters from said provisioning data into said mobile station reads on '084 (see col. 9, lines 13-24; col. 8, lines 37-38).

Sending a message from said server a message from said server to said mobile station acknowledging receipt of said message from said mobile station indicative of a failure to load said initial operational parameters from said provisioning data into said mobile station reads on '084 (see col. 32-48).

**As per claim 24:** the method wherein said mobile station comprises one of:

a cellular telephone, a vending machine, radio communication equipment that utilizes a Global System for Mobile Communications (GSM) module, and radio communication equipment that utilizes a Code Division Multiple Access (CDMA) chipset on '192 (see col. 5, lines 43-67).

### ***Response to Arguments***

Applicant's arguments filed 1/23/04 have been fully considered but they are not persuasive. Arguments and responses are provided as follow.

Art Unit: 2683

**Argument I:** With regard to claims 1 and 14, applicant argues by saying Henry (US 5,603,084) does not teach a system for data channel provisioning of a mobile phone.

**Response I:** The fact that Henry's cellular radiotelephone exchanges SMS indicates that it is provisioned data channel (see '084 (see col. 9, lines 60-66).

**Argument II:** still regarding to claims 1 and 14, applicant argues by saying "claimed initial operational parameters initiation signal generator in communication with a data message service center is not found within the teaching of Henry.

**Response II:** fig. 1, of Henry shows a mobile station communicating with a BS (20), an MSC (22), Message center (26), activation center (27) and database (24). The message center of Henry reads on applicant's data message service; activation center can read on applicant's initiation signal generator and the activation center is shown to have a connected with the message service center. Furthermore, the radiotelephone, according to Henry can be conveniently programmed after purchase from a remote location (see abstract). Hence, the argument is invalid.

**Argument III:** Henry does not teach the presence of the initial operational parameters request signal generator to request downloading of control parameters to the mobile station.

**Response III:** Henry's remote programming is functionally similar, if not identical, to that of the instant claims. In that it remotely programs a mobile station as called for by the instant claims. However, claims 1 and 14, does not mention whether or not the initial parameters downloaded are control signals. Initial operational parameters can include other operational parameters then or in addition to control signals.

Art Unit: 2683

**Argument IV:** with regard to claims 2 and 3, applicant argues by saying Henry teaches away from any SMS service center and initial operational parameters signal generator being combined.

**Response IV:** as discussed above, on the basis of fig. 1 of Henry, there is no a teach away by Henry. In that the reference provides a SMS service center (element 26). Because, the cellular radiotelephone can be remotely programmed as purchased new and without requiring the owner to physically go to a service provider for programming, one skilled in the art would assume Henrys system being capable of remotely transmitting all necessary initial parameters that would enable the radiotelephone operate as such. Furthermore, Gerszberg's mobile telephone communicates over voice channel does not prevent it from exchanging data over data communication channel. It simply shows, the telephone has multiple capabilities.

**Argument VI:** with regard to claims 4, and 5-12, applicant argues by saying examiner's citation of col. 8, lines 9-24, and col. 9, line through col. 10, line 13, merely discusses the SMS format and message pathway respectively. No discussion is present of the data message request detector.

**Response VI:** examiner respectfully disagrees. Assuming a base station is a service provider, the cited sections, particularly, col. 9, line 61-col. 10, line 10, shows that short message is used in the process of programming the remote mobile station, and the base station, as an intermediary network sends a message (activation message) which is detected by the activation center.

**Argument VII:** regarding claims 18 and 19, applicant argues by saying Henry does not teach a commit message for relevancy. Rather, Henry only discloses verification of successful or unsuccessful remote programming.

**Response VII:** examiner respectfully disagrees. First "commit" is not a word of invention. Hence, it does not carry patentable weight. Nonetheless, Henry verifies whether or not the remote programming is successful. Applicant's claims (18 and 19) call for the mobile station sending a feedback/acknowledgement message (after determining the program is relevant or not relevant) to a server. The differential feature between the claims and the reference is mere semantic.

***Allowable Subject Matter***

Claims 15-17, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2683

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N Zewdu whose telephone number is (703) 306-5418. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703) 308-5318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Meless Zewdu

*M. Z*

Examiner

12 March 2004.



WILLIAM TROST  
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